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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JAMAL MONTEJAMES BRIGMAN,

Defendant and Appellant.

E064122

(Super.Ct.No. INF1401147)

OPINION

APPEAL from the Superior Court of Riverside County. Becky Dugan, Judge.

Affirmed.

Thomas Owen, under appointment by the Court of Appeal, for Defendant and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Barry Carlton and Sabrina Y. Lane-Erwin, Deputy Attorneys General, for Plaintiff and Respondent.

The trial court denied the Proposition 47 resentencing petition of defendant and appellant Jamal Montejames Brigman. (Pen. Code, § 1170.18.)¹ Defendant contends the trial court erred, and this court should direct the trial court to reduce defendant's felony to a misdemeanor. The People concede the trial court erred. We affirm the judgment.

PROCEDURAL HISTORY

Defendant was charged along with a codefendant, Daniel Anthony Knott. The charges against defendant consisted of: (1) buying or receiving stolen property, a felony (§ 496, subd. (a); count 2); (2) petty theft, a misdemeanor (§ 488; count 3); and (3) possession of burglary tools, a misdemeanor (§ 466; count 4).² It was further alleged that defendant suffered a prior strike conviction. (§§ 667, subds. (c)&(e)(1), 1170.12, subd. (c)(1).)

On July 24, 2014, defendant pled guilty to the offense of buying or receiving stolen property, a felony. (§ 496, subd. (a).) The complaint identified the stolen property as a "Trek bicycle." Defendant also admitted suffering a prior strike conviction. (§§ 667, subds. (c)&(e)(1), 1170.12, subd. (c)(1).) Pursuant to the terms of the plea agreement, the trial court sentenced defendant to prison for a term of two years eight months. Defendant agreed, in his plea agreement, that he owed victim restitution

¹ All further statutory references are to the Penal Code unless otherwise indicated.

² Count 1, a charge for buying or receiving stolen property (§ 496, subd. (a)) was against codefendant Daniel Anthony Knott, who is not a party to this appeal.

in the amount of \$5,000, and the trial court ordered defendant to pay \$5,000 in victim restitution as well as additional amounts determined by the probation department. (§ 1202.4.)

On November 26, 2014, defendant petitioned the trial court to reduce his felony receiving stolen property conviction (§ 496, subd. (a)) to a misdemeanor. (§ 1170.18.) The petition provided no information (no allegation and no proof) about the value of the stolen bicycle. The prosecutor responded to defendant's petition by arguing defendant was not entitled to a Proposition 47 reduction because defendant "[h]elped steal a specialty bike valued at \$5,000.00." The trial court found defendant stole a bike valued at \$5,000 and therefore was not eligible for a Proposition 47 reduction of sentence. The trial court denied defendant's petition.

DISCUSSION

Defendant contends the trial court erred by denying his Proposition 47 petition because the trial court improperly found the bicycle was valued at \$5,000, when no evidence was submitted to support such a finding.

No evidence was submitted at the trial court, so we will apply the de novo standard of review. (*People v. Sherow* (2015) 239 Cal.App.4th 875, 878.) In April 2014, when defendant committed his crime, the offense of receiving stolen property could be charged as a misdemeanor if (1) such a classification served the interests of justice, and (2) the value of the stolen property did not exceed \$950. (Former § 496, subd. (a).) Now, after the passage of Proposition 47, the offense of receiving stolen

property is a misdemeanor if the value of the property does not exceed \$950. (*T.W. v. Superior Court* (2015) 236 Cal.App.4th 646, 651.)

In requesting a felony conviction be transmuted into a misdemeanor pursuant to Proposition 47, a defendant bears the burden of making an initial showing concerning the value of the stolen property. In other words, a defendant bears the burden of initially showing he is entitled to a reduction in sentence. Therefore a “proper petition” should contain proof, such as the defendant’s testimony regarding the nature and value of the items taken. Based upon that initial showing, the trial “court can take such action as appropriate to grant the petition or permit further factual determination.” (*People v. Sherow, supra*, 239 Cal.App.4th at p. 880.)

In defendant’s petition, he provided no information about the value of the bicycle—no allegations and no proof. Defendant merely asserted he had a felony conviction for receiving stolen property (§ 496, subd. (a)), and that crime is now a misdemeanor under Proposition 47. Because defendant’s petition provided no information, in the form of an allegation or proof, concerning the value of the bicycle, we conclude the trial court correctly denied defendant’s petition. Defendant failed to meet his initial burden of alleging and showing the value of the bicycle was \$950 or less.

The trial court may have erred by making the factual finding that the bicycle was valued at \$5,000 because evidence was not submitted to support that finding. Nevertheless, the trial court’s ruling was correct for a different reason—defendant failed to meet his burden of alleging and showing the bicycle was valued at \$950 or less. (*In*

re Lucero L. (2000) 22 Cal.4th 1227, 1249-1250 [a correct ruling will be upheld even if the reasons for the ruling were incorrect].) Defendant's failure to provide the trial court with any information regarding the value of the bicycle means he failed to provide information about his eligibility for resentencing. Accordingly, we conclude the trial court did not err by denying defendant's petition.

DISPOSITION

The judgment is affirmed.

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MILLER
J.

We concur:

HOLLENHORST
Acting P. J.

CODRINGTON
J.